

Remarks/Arguments:

STATUS OF CLAIMS

Claims 2, 3, 5, 8, 10, 44, 54, 56, 57, 59, 61, 62 and 67 are amended, and Claims 1, 11-43 and 45 are cancelled without prejudice or disclaimer, such that Claims 2-10, 44 and 46-67 are currently pending in the application.

REMARKS/ARGUMENTS

In the Office Action dated August 19, 2010, the Examiner rejected claims 2,-10, 44 and 46-67 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Further, the Examiner kindly stated that these claims would be allowable if rewritten or amended to overcome the §112 rejection. In light of the Examiner's rejection, Applicant respectfully submits this amendment after final rejection and asserts that this amendment renders the claims patentable subject matter.

REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH.

The Examiner has rejected claims 2-10 and claims 44, 46-67 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly identify and distinctly claim the subject matter which the Applicant regards as the invention. More specifically, the Examiner has asserted that the effect of the “sixth message” as stated in independent claim 2 is unclear which renders the claim indefinite. Office Action, page 5.

MPEP §2173.05(b) states:

The fact that claim language...may not be precise, does not automatically render the claim indefinite under 35 U.S.C. §112, second paragraph...Acceptability of the claim language depends on whether one with ordinary skill in the art would understand what is claimed, in light of the specification.

Applicant has amended independent claim 2 and asserts that it clearly points out and distinctly claims the subject matter which Applicant regards as the invention. Amended claim 2 recites, in part,

transmitting a sixth message from the trading system via the at least one processor to the trading exchange, the sixth message comprising at least one member of a calculated group consisting of a calculated offer to sell the quantity of the article at the current price and a calculated bid to buy the quantity of the article at the current price.

Amended claim 2 clearly indicates that the purpose of the “sixth message” is to allow the trade system to execute a trade with the trading exchange based upon the calculated, current market price. This amendment to claim 2 renders the rejection based upon §112, second paragraph, of dependent claims 3-10 which depend upon claim 2, moot.

Likewise, Applicant has amended independent claim 44 to clearly point out the purpose of the “fifth message” which reads in part:

transmitting a fifth message from the trading system via at the at least one processor to the trading exchange, the fifth message comprising at least one member of a group consisting of a calculated offer to sell the quantity of the article at the current price and a calculated bid to buy the quantity of the article at the current price.

Amended claim 44 clearly indicates that the purpose of the “fifth message” is to allow the trade system to complete a trade with the trading exchange based upon the calculated, current market price. This amendment to claim 44 renders the rejection based upon §112, second paragraph of the claims that depend upon claim 44, claims 46-67, moot.

If the Examiner persists in this rejection, the Applicant respectfully requests that the Examiner provide support at least for her assertion that one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

CONCLUSION

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

If there are any matters which can be clarified by telephone, the Examiner is requested to contact the undersigned attorney.

If there are any fees due in connection with the filing of this response, the Office is authorized to charge same to Deposit Account No. 50-0354.

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Respectfully Submitted,

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